

ACT #2018-411

1 HB107
2 183676-3
3 By Representative Lee
4 RFD: State Government
5 First Read: 09-JAN-18



1
2 ENROLLED, An Act,

3 To amend Section 11-51-90.2 of the Code of Alabama
4 1975, relating to the purchase of a municipal business
5 license; to provide that a business license is not required
6 for a person travelling through a municipality on business if
7 the person is not operating a branch office or doing business
8 in the municipality.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

10 Section 1. Section 11-51-90.2 of the Code of Alabama
11 1975, is amended to read as follows:

12 "§11-51-90.2

13 "(a) Every taxpayer required to purchase a business
14 license under this chapter shall:

15 "(1) Purchase a business license for each location
16 at which it does business in the municipality, except as
17 otherwise provided by the municipality.

18 "(2) Except as provided in Section 11-51-193, with
19 respect to taxpayers subject to state licensing board over-
20 sight, be classified into one or more of the following 2002
21 North American Industrial Classification System ("NAICS") sec-
22 tors and applicable sub-sectors, industry groups, industries
23 and U.S. industries thereunder:

1	SECTOR	NAICS TI- TLE	SUGGESTED BUSINESS LICENSE CODE GROUP- ING BY SAMPLE TOPIC OR CATEGORY	BASIS FOR LI- CENSE CALCULA- TION
2				
3	111	Crop Produc- tion	Agriculture, farm- ing, nursery, fruit, growers	Gross Receipts and/or Flat Rate
4				
5	112	Animal Pro- duction	Animal, dairy, cat- tle, ranching, sheep, chicken	Gross Receipts and/or Flat Rate
6				
7	113	Forestry and Logging	Forestry, logging, timber	Gross Receipts and/or Flat Rate
8				
9	114	Fishing, Hunting, and	Fishing, hunting, supplies and equip-	Gross Receipts and/or Flat Rate

	activities	wells	Where not State Regulated
18			
19	221 Utilities	Utilities, gas, electric, water, sewage, steam	State Regulated (See Section 11-51-129)
20			
21	236 Building, Developing and General Contracting	Construction, building, general, residential, subdivisions	Gross Receipts and/or Flat Rate
22			
23	237 Heavy Construction	Construction, heavy construction, highway, bridge, street	Gross Receipts and/or Flat Rate
24			
25	238 Special Trade Con-	Construction, all special trades	Gross Receipts and/or Flat Rate

tractors

26

27 311 Food Manu- Food manufacturing, Gross Receipts,
 facturing animal, grain, Flat Rate, or
 fruit, dairy, meat, Value of Goods
 seafood Produced

28

29 312 Beverage and Beverage manufac- Gross Receipts
 Tobacco turing, soft drink, and/or Flat Rate
 Products bottled water, Where Not State
 Manufactur- breweries, ice Regulated, or
 ing Value of Goods
 Produced

30

31 313 Textile Mills, textile, Gross Receipts,
 Mills fabric, yarn, car- Flat Rate, or
 pet, canvas, rope, Value of Goods
 twine Produced

32

1	314	Textile Product Mills	Other mill opera- tions not covered in 313	Gross Receipts, Flat Rate, or Value of Goods Produced
2				
3	315	Apparel Man- ufacturing	Apparel manufactur- ing, hosiery, men, women, children, lingerie	Gross Receipts, Flat Rate, or Value of Goods Produced
4				
5	316	Leather and Allied Prod- uct Manufac- turing	Leather manufactur- ing, shoes, lug- gage, handbag, re- lated products	Gross Receipts, Flat Rate, or Value of Goods Produced
6				
7	321	Wood Prod- ucts Manu- facturing	Wood products, saw- mills, wood, pres- ervation, veneer, trusses, millwork	Gross Receipts, Flat Rate, or Value of Goods Produced

		Manufactur- ing	turing, wood, fer- tilizer, pesticide, paint, soap, other	Flat Rate, or Value of Goods Produced
9				
10	326	Plastics and Rubber Prod- uct Manufac- turing	Plastic and tire manufacture, pipe, hoses, belts, bot- tle, sheet, foam	Gross Receipts, Flat Rate, or Value of Goods Produced
11				
12	327	Nonmetallic Mineral Product Man- ufacturing	Nonmetallic manu- facturing, clay, glass, cement, lime, gypsum, other	Gross Receipts, Flat Rate, or Value of Goods Produced
13				
14	331	Primary Metal Manu- facturing	Metal manufactur- ing, iron, steel, aluminum, copper, other nonferrous	Gross Receipts, Flat Rate, or Value of Goods Produced
15				

1	332	Fabricated Metal Prod- uct Manufac- turing	Fabricated metal, cutlery, struc- tural, ornamental, wire, machine shops	Gross Receipts, Flat Rate, or Value of Goods Produced
2				
3	333	Machinery Manufactur- ing	Machinery manufac- turing, farm, HVAC, office, industrial, engine, other	Gross Receipts, Flat Rate, or Value of Goods Produced
4				
5	334	Computer and Electronic Product Man- ufacturing	Computers and elec- tronics, peripher- als, audio, video, circuit boards	Gross Receipts, Flat Rate, or Value of Goods Produced
6				
7	335	Electrical Equipment Appliance Component Manufactur-	Electrical equip- ment, lighting, small appliance, battery, other	Gross Receipts, Flat Rate, or Value of Goods Produced

ing

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9 336 Transporta- Transportation man- Gross Receipts,
 tion Equip- ufacturing, auto, Flat Rate, or
 ment Manu- truck, trailer, mo- Value of Goods
 facturing tor home, ship, Produced
 boat, motorcycle

10

11 337 Furniture Furniture manufac- Gross Receipts,
 and Related turing, cabinets, Flat Rate, or
 Products office furniture, Value of Goods
 Manufactur- beds, kitchen Produced
 ing

12

13 339 Misc. Manu- Misc. manufactur- Gross Receipts,
 facturing ing, medical, den- Flat Rate, or
 tal, jewelry, Value of Goods
 sporting goods, Produced
 toys, signs, all
 other

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421	Wholesale Trade, Durable Goods	Wholesale trade-durable, motor vehicle, home furniture, machinery, equipment	Gross Receipts and/or Flat Rate
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422	Wholesale Trade, Non-Durable Goods	Wholesale trade-nondurable, paper, apparel, grocery, dairy, farm, beverages	Gross Receipts and/or Flat Rate
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441	Motor Vehicle and Parts Dealer	Motor vehicles, automobiles, motorcycles, boats, parts, accessories	Gross Receipts and/or Flat Rate
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1	442	Furniture and Home Furnishing Stores	Furniture stores, home, floor, fur- nishings, window, special products	Gross Receipts and/or Flat Rate
2				
3	443	Electronics and Appli- ance Stores	Electronic and ap- pliance store, household, radio, television, com- puter	Gross Receipts and/or Flat Rate
4				
5	444	Building Ma- terial and Gardening Equipment Dealers	Building materials, hardware, paint, home center, wall- paper	Gross Receipts and/or Flat Rate
6				
7	445	Food and Beverage Stores	Food and beverage stores, grocery, convenience, mar-	Gross Receipts and/or Flat Rate Where Not State

1	451	Sporting Goods, Hobby, Book, Music	Sporting goods stores, hobby, toy, fish, gun, music, books	Gross Receipts and/or Flat Rate
2				
3	452	General Merchandise	General merchandise stores, department, warehouse clubs, superstores	Gross Receipts and/or Flat Rate
4				
5	453	Miscellaneous Store Retailers	Misc. store retailers, florist, gift, novelty, used, pets, art, tobacco	Gross Receipts and/or Flat Rate
6				
7	454	Nonstore Retailers	Nonstore retailers, electronic shopping, mail order, vending, direct selling	Gross Receipts and/or Flat Rate

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2 481 Air Trans- Air transportation, Gross Receipts
 portation airline tickets, and/or Flat Rate
 shipping, freight, Where Not State
 charters Regulated

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4 482 Rail Trans- Rail transporta- State Regulated
 portation tion, ticket of- and/or Flat Rate
 fices, short line,
 freight

5

6 483 Water Trans- Water transporta- Gross Receipts
 portation tion, coastal, and/or Flat Rate
 freight, inland, Where Not State
 passenger, forward- Regulated
 ers

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8 484 Truck Trans- Truck transporta- Gross Receipts

portation	tion, terminal, local, long-distance, freight	and/or Flat Rate Where Not State Regulated
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10	485 Transit and Ground Pas- senger Transporta- tion	Ground transporta- tion, bus, taxi, limousine, charter, buggy	Gross Receipts and/or Flat Rate
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12	487 Scenic and Sightseeing Transporta- tion	Scenic and sight- seeing, land, wa- ter, air, special	Gross Receipts and/or Flat Rate
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14	492 Couriers and Messengers	Couriers and mes- sengers, services, delivery	Gross Receipts and/or Flat Rate
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1	493 Warehousing and Storage	Warehouse and stor- age, household, re- frigerated, distri- bution, special	Gross Receipts, Flat Rate or Square Feet
2			
3	511 Publishing Industries (except Internet)	Publishing, newspa- pers, periodicals, databases, software	Gross Receipts and/or Flat Rate
4			
5	512 Motion Pic- ture and Sound Re- cording In- dustry	Motion pictures and videos, theatres, recording, studios, drive-in	Gross Receipts and/or Flat Rate
6			
7	515 Broadcasting (except	Broadcasting and radio, TV	Gross Receipts and/or Flat Rate

Internet)

Where Not State
Regulated

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9	516	Internet Publishing and Broad- casting	Publications or broadcasting for Internet only	Gross Receipts and/or Flat Rate Where Not State Regulated
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11	517	Telecommuni- cations	Providing, access to facilities for voice, data, text, sound and/or video	Gross Receipts and/or Flat Rate Where Not State Regulated
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13	519	Information Services and Data Pro- cessing	Providing, storing, processing, and providing access to information	Gross Receipts and/or Flat Rate
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1	524	Insurance Carriers and Related Ac- tivities	Insurance compa- nies, fire, marine, and fire casualty	State Regulated
2				
3	525	Funds, Trusts, Other Finan- cial Vehi- cles	Funds, plans, and/or programs or- ganized to pool se- curities or other assets for others, other than the Ala- bama Municipal Funding Corporation	Gross Receipts and/or Flat Rate Where Not State Regulated
4				
5	531	Real Estate	Real estate, of- fices, agents, bro- kers, developers	Gross Receipts and/or Flat Rate Where Not State Regulated
6				

1	532	Rental and Leasing Ser- vices	Rental and leasing, auto, truck, equip- ment, tangible property	Gross Receipts and/or Flat Rate
2				
3	541	Professions, Scientific, Technical Services	Attorney, doctor, dentist, architect, engineer, vet, other professions	Gross Receipts for outdoor/billboard advertising; oth- erwise flat rate and/or gross re- ceipts
4				
5	551	Management of Companies and Enter- prises	Management of com- panies and enter- prises, offices, regional, corporate	Gross Receipts and/or Flat Rate Where Not State Regulated. For purposes of this chapter only, bank holding companies are state regu- lated and are sub-

ject only to the
 license tax amount
 authorized under
 Section
 11-51-130(a)(12).

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7	561	Administra- tive and Support Ser- vices	Administrative and support services, office, employment, answering, travel	Gross Receipts and/or Flat Rate Where Not State Regulated
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9	562	Waste Man- agement and Remediation Services	Waste management, services, landfill, septic tank, compa- nies, trucks	Gross Receipts and/or Flat Rate Where Not State Regulated
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11	611	Educational Services	Educational ser- vices, business, secretarial, com- puter, technical,	Gross Receipts and/or Flat Rate Where Not State Regulated
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sports, other

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13	621	Ambulatory Health Care Services	Health care ser- vices, mental, out- patient, HMO, diag- nostic, blood, di- alysis, other	Gross Receipts and/or Flat Rate
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15	622	Hospitals	Hospitals, surgi- cal, substance abuse, psychiatric, specialty	Gross Receipts and/or Flat Rate Based on No. of Patients or Beds
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17	623	Nursing and Residential Care Facili- ties	Nursing and resi- dential care facil- ities, elderly, day care, assisted liv- ing	Gross Receipts and/or Flat Rate
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1	624 Social As- sistance	Social assistance, child, shelters, vocational, emer- gency	Gross Receipts and/or Flat Rate Where Not State Regulated
2			
3	711 Performing Arts, Spec- tator Sports	Arts and sports, dance, musical, spectator, teams, tracks, promoters, agents	Gross Receipts and/or Flat Rate
4			
5	712 Museums, Historical Sites and Similar	Museums, historical sites, zoos, botan- ical gardens, parks, special sites	Gross Receipts and/or Flat Rate
6			
7	713 Amusement, Gambling and Related	Amusement and rec- reation, gambling, theme, arcade,	Gross Receipts and/or Flat Rate Where Not State

golf, marinas, fitness
 ness Regulated

8

9 721 Accomoda- Accommodations, ho- Gross Receipts
 tions tel, travel, and/or Flat Rate
 bed-and-breakfast,
 rooming houses, mo-
 tel

10

11 722 Food Ser- Food service and Gross Receipts
 vices and drinking places, and/or Flat Rate
 Drinking restaurant, cater-
 Places ers, bar, lounge,
 club

12

13 811 Repair and Repair and mainte- Gross Receipts
 Maintenance nance, automotive, and/or Flat Rate
 electronic, commer-
 cial, residential,
 other

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2 812 Personal and Personal care ser- Gross Receipts
 Laundry Ser- vices, hair, nail, and/or Flat Rate
 vices skin, barber,
 beauty, diet, tan-
 ning, funerals

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4 910 Category Vending machines, Gross Receipts
 for: pool tables, amuse- and/or Flat Rate
 ment devices, etc.

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6 920 Category for Employees: as in Gross Receipts,
 employees: number of employees Flat Rate or Num-
 used in license ber of Employees
 calculation

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8 930 Category for Square feet used Gross Receipts,
 square feet: for warehousing, Flat Rate or Num-

large buildings,
and other types

ber of Square Feet

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923 Administra-
tion of Hu-
man Resource
Programs

General Category

Gross Receipts
and/or Flat Rate
Where Applicable

11

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924 Administra-
tion of En-
vironmental
Quality Pro-
grams

General Category

Gross Receipts
and/or Flat Rate
Where Applicable

13

14

925 Administra-
tion of
Housing, Ur-
ban, Comm.

General Category

Gross Receipts
and/or Flat Rate
Where Applicable

15

1	926	Administra- tion of Eco- nomic Pro- grams	General Category	Gross Receipts and/or Flat Rate Where Applicable
2				
3	927	Space Re- search and Technology	General Category	Gross Receipts and/or Flat Rate Where Applicable
4				
5	928	National Se- curity and Interna- tional Af- fairs	General Category	Gross Receipts and/or Flat Rate Where Applicable
6				
7	999	Unclassified Establish- ments	General Category	Gross Receipts or Flat Rate, Where Not State Regu- lated

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"(3) Notwithstanding any provision of this chapter to the contrary, a business license is not required for a person travelling through a municipality on business if the person is not operating a branch office as provided in Section 11-51-90, or doing business in the municipality.

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(b) The taxing jurisdiction's basis for determination of the business license tax for each sector shall correspond with the basis specified in subsection (a), such as gross receipts, flat rate, number of employees, or square footage. Provided, however, with respect to machines and other devices described in Sector 910 above, the municipality, in addition to a gross receipts-based or flat rate license, may require the taxpayer to purchase a decal for each machine or device located within the municipality. The charge for such decal shall not exceed the municipality's actual cost of the decal. Provided further, the taxing jurisdiction shall have authority to issue one license, rather than multiple licenses, to a business in accordance with the taxing jurisdiction's business license ordinance. To the extent that subsection (a) indicates that a business activity described in an NAICS sector is fully or partially state regulated, no taxing jurisdiction shall have authority to impose a business license tax in excess of the amount

1 otherwise authorized by state law on the state regulated
2 portion of such sector.

3 "(c) The measure of a municipal business license
4 based on gross receipts shall be based on the taxpayer's gross
5 receipts for the license year next preceding the current
6 license year unless the taxpayer first began doing business in
7 the municipality during the current license year, in which
8 event the gross receipts shall be projected by the taxpayer
9 for the remaining portion of the current license year. If the
10 taxpayer's actual gross receipts for the short license year
11 are either more or less than projected, the taxpayer's
12 annualized gross receipts used in calculating its business
13 license tax liability for the following license year shall be
14 increased or decreased, respectively, by the amount of the
15 difference. When annualizing the gross receipts for the short
16 license year, the amount of the gross receipts projected by
17 the taxpayer shall be divided by the number of full months the
18 taxpayer was in business in the municipality and multiplied by
19 12; provided that each taxpayer shall be deemed to have been
20 in business in the municipality for a minimum of one month for
21 purposes of this calculation. If the taxpayer employs a fiscal
22 year for federal and state income tax purposes, the taxpayer's
23 gross receipts may be determined, at the option of the
24 taxpayer, from the federal income tax return of the taxpayer
25 for the fiscal year next preceding the current license year,

1 provided that the gross receipts reported thereon reasonably
2 reflect the financial condition of the taxpayer as of the
3 December 31 next preceding the current license year, and the
4 taxpayer so notifies the municipality either prior to or
5 simultaneously with filing the first business license
6 remittance form using fiscal year data. The taxpayer's use of
7 fiscal year data, as provided above, shall constitute an
8 irrevocable election to use fiscal year data with respect to
9 the current and subsequent business license years unless the
10 governing body of the municipality or its director of finance
11 or other chief revenue officer or his or her designee consents
12 otherwise. Provided, however, that nothing in this subsection
13 shall prohibit a municipality from doing any of the following:

14 "(1) Creating one or more sub-sectors in each of the
15 NAICS sectors listed in subsection (a) above, subject to the
16 limitations regarding the basis for license calculation and
17 subsections (e) and (f) below.

18 "(2) Levying and collecting any municipal tax, other
19 than an annual business license, that now exists or that may
20 hereafter be adopted pursuant to Section 11-51-90 or some
21 other provision of state law, including, but not limited to,
22 lodgings taxes, alcoholic beverage taxes, gasoline and motor
23 fuel taxes, tobacco taxes, leasing or rental taxes,
24 occupational taxes, sales and use taxes, and gross receipts
25 taxes in the nature of a sales tax.

1 "(3) Allowing or requiring a taxpayer to purchase a
2 minimum business license with respect to the short license
3 year following 90 days of operations in the municipality,
4 based on the amount which bears the same relationship to the
5 actual amount of gross receipts during such preceding license
6 year as the entire license year bears to the number of days
7 during which the taxpayer was operating during such preceding
8 license year. If the taxpayer did not commence operations
9 until after the first day of the calendar year, the
10 municipality may by ordinance require the taxpayer to remit
11 the business license tax at the end of such 90 day period, or
12 on December 31 of the current license year, whichever occurs
13 first.

14 "(d) For purposes of subsection (a), the terms
15 "state regulated" or "where not state regulated," when used
16 with reference to a business listed in one of the NAICS
17 sectors and any subsequently created sub-sector, mean and
18 refer to other provisions of the Code of Alabama 1975, that
19 deal with or limit the taxation of the respective business by
20 municipalities, none of which are amended or repealed by this
21 act.

22 "(e) Notwithstanding anything in this chapter to the
23 contrary, the licenses authorized by Sections 11-51-130 and
24 11-51-131 are in lieu of any other business licenses
25 authorized by this chapter, and banks and savings and loan

1 associations subject to either of those sections are not
2 subject to the business license taxes otherwise authorized by
3 this chapter, regardless of whether one or more NAICS sectors
4 or sub-sectors describe or include any business or activity of
5 such bank or savings and loan association. Any municipal
6 business license tax applicable to a bank holding company, as
7 defined in Section 5-13B-2(f), shall not exceed the amount set
8 forth in the schedule provided for banks under Section
9 11-51-130(a)(12). Provided, however, if a bank holding company
10 is engaged in additional lines of business that do not fall
11 within NAICS Sectors 551 or 522 and which are not considered
12 financial in nature, as defined under federal banking law, the
13 bank holding company shall take out and pay for a business
14 license for each additional line of business so assessed by
15 the municipality; provided further that for each separate
16 additional business license, the gross receipts taxable under
17 such license shall be only those gross receipts of the bank
18 holding company which arise under the license for the
19 respective additional line of business and not from a
20 financial activity, as defined under federal banking law, or
21 from an activity within NAICS Sector 551 or 522. This
22 subsection (e) shall not apply to any subsidiary of a bank or
23 savings and loan association.

24 "(f) Notwithstanding any provision of this chapter
25 to the contrary, each of the several municipalities in this

1 state may annually assess and collect from each utility or
2 other entity described in Section 11-51-129 only one municipal
3 business license tax for all lines of business classified in
4 NAICS Sector 221, and the levy, collection and assessment of
5 the single business license tax shall be subject to the
6 provisions and limitations of Section 11-51-129 and Section
7 11-51-90A. If any such utility or entity described in Section
8 11-51-129 is engaged in one or more additional lines of
9 business that do not fall within NAICS Sector 221, and if the
10 additional line of business of such utility or other entity is
11 so assessed by the municipality, then the utility or other
12 entity shall take out and pay for a business license for that
13 additional line of business, even if the utility or other
14 entity does not meet the requirement in Section 11-51-95 that
15 it must derive more than 10 percent of its gross receipts from
16 the business falling within the NAICS sector during the
17 preceding license year; provided however, that for each
18 separate, additional business license, the gross receipts
19 taxable under such license shall be only those gross receipts
20 of the utility or other entity from business done within the
21 municipality and which arise within the line of business which
22 is the subject of the respective license."

23 Section 2. The provisions of this act are severable.
24 If any part of this act is declared invalid or
25 unconstitutional, that declaration shall not affect the part

1 which remains. References to sections of the Code of Alabama
2 1975, or to sectors or sub-sectors of the 2002 North American
3 Industrial Classification System (NAICS) shall mean and
4 include references to any corresponding provision of
5 subsequent state law or of a subsequent Industrial
6 Classification System; provided, however, that references in
7 this act to a particular section of the Code of Alabama 1975,
8 or more generally to a business being "state regulated," to
9 the extent those references are intended to impose limitations
10 on the business license under a particular NAICS sector, shall
11 not be deemed amended or superseded by an amendment to the
12 corresponding NAICS sector or the issuance of additional NAICS
13 sectors, sub-sectors or additional designations or of another
14 Industrial Classification System.

15 Section 3. This act shall become effective
16 immediately following its passage and approval by the
17 Governor, or its otherwise becoming law.

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Mac McClatchey

Speaker of the House of Representatives

Del Marshall

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 20-FEB-18.

Jeff Woodard
Clerk

Senate

21-MAR-18

Passed

APPROVED 3-28-2018
TIME 2:30 PM

Kay Ivey
GOVERNOR

Alabama Secretary Of State

Act Num....: 2018-411
Bill Num...: H-107

Recv'd 03/28/18 05:03pmKCW

INDIVIDUAL SIGNATURES OF CO-SPONSORS

- 80 _____
- 81 _____
- 82 _____
- 83 _____
- 84 _____
- 85 _____
- 86 _____
- 87 _____
- 88 _____
- 89 _____
- 90 _____
- 91 _____
- 92 _____
- 93 _____
- 94 _____
- 95 _____
- 96 _____
- 97 _____
- 98 _____
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- 100 _____
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- 103 _____
- 104 _____

HOUSE ACTION
(Continued)

REPORT OF 2ND STANDING COMMITTEE
 This bill having been referred by the House to its standing committee on _____ was acted upon by such a committee in session, and returned therefrom to the House with the recommendation that it be Passed, w/amend(s) _____ w/sub this _____ day of _____, 20____, Chairperson _____

HOUSE OF REPRESENTATIVES
 R. 3 at length and passed
 Years 92 Nays 0 Abs 0
 Date 8-20-18
 JEFF WOODARD, Clerk

SENATE ACTION
(Continued)

This bill having been referred to the Committee on Rules pursuant to Senate Rule 23 is reported to the Senate for assignment to the Committee on: _____
 This _____ day of _____, 20____
 Signed (Committee Chairperson) _____

Date: _____ Referred
 Committee _____

DATE: _____ 20____
 RE-REFERRED RE-COMMITTED
 Committee _____

This Bill was referred to the Standing Committee of the Senate on _____ and was acted upon by such Committee in session and is by order of the Committee returned therefrom with a favorable report w/amd(s) _____ w/sub _____ w/eng sub _____ by a vote of _____ yeas _____ nays _____ abstain _____ this _____ day of _____, 20____

Chairperson _____

Chairperson _____